

Information Collection Request  
for  
Superfund Orphan Share Compensation Reform Survey

OMB Control Number:

Part A

The United States Environmental Protection Agency

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## **Section 1: Identification of the Information Collection**

### **a. Title of the Information Collection**

ICR: Superfund Orphan Share Compensation Reform Survey

OMB Control Number:

### **b. Short Characterization/Abstract**

This information collection is for a survey of orphan share compensation reform participants who were offered orphan share compensation as part of the reform. EPA will survey orphan share compensation reform offerees as necessary to obtain a sufficient sample size, not to exceed 300 total respondents. The survey will be administered to a non-random sample consisting of one-third (33 percent) of the settlors and one-third (33 percent) of the non-settlors for each offer extended by the Agency, subject to a minimum of three offerees in each category. The information will not be generalized to the population of offerees. The information collected from this survey will be used in a broader evaluation of the orphan share compensation reform's overall effectiveness.

The orphan share compensation reform was announced in October 1995 and was intended to provide greater fairness, reduce litigation and attendant transaction costs, and promote faster cleanup at Superfund sites. EPA accomplishes these objectives by compensating parties who settle and perform work for a portion of cleanup costs that the Agency allocates to orphan shares. An orphan share is the financial responsibility assigned to a potentially liable party who is insolvent or defunct, and unaffiliated with other viable liable PRPs. By providing compensation for orphan shares, EPA creates a major incentive for PRPs to agree to perform cleanups and settle claims without litigation, thereby reducing transaction costs by wholly or partly resolving the question of who should bear the financial burden of the orphan share.

EPA continues to offer orphan share compensation at every eligible site under its June 1996 "Interim guidance on Orphan Share Compensation for Settlers of Remedial Design/Remedial Action and Non-Time Critical Removals". Under the interim guidance, EPA compensates parties who agree to perform a remedial action or non-time critical removal at an NPL site for some or all of the costs specifically attributable to insolvent or defunct PRPs. Compensation is the lesser of up to 25 percent of the response costs or total past and future oversight costs, but cannot exceed the estimated orphan share.

In September 1997, EPA and the Justice Department expanded the orphan share compensation reform by amending the 1994 CERCLA settlement policy to include factors for the government to consider when deciding whether and how much to compromise cost recovery claims based on the existence of a significant orphan share.

## Section 2: Need for and Use of the Collection

### a. Need/Authority for the Collection

Effective as of September 11, 1993, Executive Order 12862 calls upon federal agencies to take the following actions:

- identify the customers who are, or should be, served by the agency;
- survey customers to determine the kind and quality of services they want and their level of satisfaction with existing services;
- make information, services, and complaint systems easily accessible; and
- provide means to address customer complaints.

This information collection is consistent with the mandate of EO 12862, as it will collect information from recipients of an EPA settlement process and use that information to evaluate the process and formulate improvements that are consistent with the goals and objectives of the orphan share compensation reform.

In addition, a recent US Government Accounting Office (GAO) report (*Superfund: Extent to Which Most Reforms Have Improved the Program is Unknown*, May 2000, GAO/RCED-00-118) recommended that EPA address “ways in which the agency can cost effectively obtain additional data - for the reforms with the greatest potential for improving the program - that would help it better assess the reform results, including continuing to pursue authority from OMB to solicit input from private parties and other key stakeholders on the success of the reforms...” We believe that this information collection addresses GAO’s recommendation with respect to the orphan share compensation reform.

In May of 1995, EPA announced the second round of Administrative Reforms to the Superfund program. Among the reforms announced that day was the orphan share compensation reform. An orphan share is the financial responsibility assigned to a potentially liable party who is insolvent or defunct, and unaffiliated with other viable liable PRPs. Under this reform, EPA compensates parties who settle and perform work for a portion of cleanup costs that the Agency allocates to orphan shares. By providing compensation for orphan shares, EPA creates a major incentive for PRPs to agree to perform cleanups and settle claims without litigation, thereby reducing transaction costs by wholly or partly resolving the question of who should bear the financial burden of the orphan share.

*Interim Guidance on Orphan Share Compensation for Settlers of Remedial Design/Remedial Action and Non-Time Critical Removals* (October 1996) and *CERCLA Settlement Policy* (Amended September 1997) are the two policies which were developed by OSRE in response to the orphan share compensation Administrative Reform. Under the interim guidance, EPA compensates parties who agree to perform a remedial action or non-time critical removal at an NPL site for some or all of the costs specifically attributable to insolvent or defunct PRPs. The amended *CERCLA*

*Settlement Policy* expanded the orphan share compensation reform to include factors for the government to consider when deciding whether and how much to compromise cost recovery claims based on the existence of a significant orphan share. The reform orphan share compensation reform has been fully implemented since the beginning of FY98.

b. Practical Utility/Users of the Data

OSRE is conducting an evaluation of the orphan share compensation reform that includes, among other data collection methods, a survey of orphan share compensation reform participants. The information collected in this survey effort will be used by OSRE personnel for program evaluation and customer satisfaction purposes to identify potential orphan share compensation reform improvements.

While the information collected will not be used for regulatory development, OSRE will use the information to consider revisions to Agency policies and to evaluate the need to develop further guidance to improve Superfund program implementation.

**Section 3: Nonduplication, Consultations, and Other Collection Criteria**

a. Nonduplication

All of the information requested from respondents under this ICR is not available from other sources. We are requesting directly from respondents their impressions of how the orphan share compensation reform affected their decision to settle with the Agency.

b. Public Notice Required Prior to ICR Submission to OMB

OSRE submitted the text of the *Federal Register* Notice concerning its submission of this Information Collection Request to OMB on [month, date, year]. See Appendix A for the full text of this *Federal Register* Notice.

c. Consultations

This information request was completed in consultation with the following EPA representatives:

Deniz Ergener	Team Leader/Attorney Advisor, OSRE (202) 564-4233
Bob Roberts	Attorney Advisor, OSRE (202) 501-0269
Stephanie Vetter	Program Analyst, OSRE

(202) 564-5152

Bruce Pumphrey

Team Leader, Program Evaluation Team  
Program Evaluation and Coordination Branch OSRE  
(202) 564-6076

OSRE personnel also consulted the Bureau of Labor Statistics web site for information on hourly wage rates for respondent types (see <http://stats.bls.gov>).

d. Effects of Less Frequent Collection

This is a one-time collection of information.

e. General Guidelines

This one-time voluntary collection conforms to OMB's guidelines on information collection. Under no circumstances will respondents be required to take any of the following actions:

- Report information to the Agency more often than quarterly;
- Prepare a written response to a collection of information in fewer than 30 days after receipt of a request;
- Retain records, other than health, medical, government contract, grant-in-aid, or tax records, for more than three years;
- Participate in a statistical survey that is not designed to produce data that can be generalized to the universe of the study;
- Utilize a statistical data classification that has not been reviewed and approved by OMB;
- Receive a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which, unnecessarily impedes sharing of data with other agencies for compatible confidential use; or,
- Submit proprietary, trade secret, or other confidential information unless the Agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.

f. Confidentiality

No confidential information is being collected under this ICR.

g. Sensitive Questions

No information on private matters is being collected under this ICR.

#### **Section 4: The Respondents and the Information Requested**

##### **a. Respondents/SIC Codes**

This voluntary information collection is a non-random survey effort targeted at persons who received orphan share compensation offers. The survey is likely to capture a variety of industry types and SIC codes. The exact composition of the sample will be dependent on the geographic location of the sites where offers were made, the nature of site activities, and the types of entities that elect to participate in the survey effort. Superfund is a liability-based response program rather than a regulatory program. As such, there are no data reporting requirements that participants must meet and no central inventory of participant characteristics is maintained. Consequently, the Agency is unable to provide a detailed breakdown of SIC codes for potential respondents. The vast majority of respondents are expected to be for-profit businesses. The balance of the respondents are expected to be individuals.

##### **b. Information Requested**

###### **i. Data Items, Including Recordkeeping Requirements**

The following types of information will be collected during the survey:

- Satisfaction with the compensation offer under the reform
- How the offer affected settlement deliberations
- What effect, if any, the compensation offer had on transaction costs and the pace of settlement discussions

All items are reporting items; no record keeping items are associated with this survey. A copy of the survey questions appears as Appendix B to this statement.

###### **ii. Respondent Activities**

Survey respondents will perform four activities:

- Review notification letter and survey questions;
- Search records for information about the orphan share reform compensation offer;
- Review the information that has been collected; and,
- Fill-out and return the survey or participate in the telephone survey

These activities represent a one-time voluntary information collection, and are not customary business



practices of the respondents.

## **Section 5: The Information Collected – Agency Activities, Collection Methodology, and Information Management**

### **a. Agency Activities**

Agency activities associated with the Orphan Share Compensation Reform Survey consist of the following:

- Develop a research methodology and draft the survey instrument;
- Compile Orphan Share Compensation Reform data and draw the survey sample;
- Develop script for computer-assisted telephone interviewing (CATI) technology and project database;
- Distribute survey notification letter to potential respondents;
- Enter written survey submissions into project database;
- QA/QC data entry from written survey submissions;
- Administer telephone surveys using CATI technology;
- Analyze evaluation data;
- Prepare evaluation report; and,
- Store evaluation data/retain survey records/data pursuant to EPA records retention schedules.

### **b. Collection Methodology and Management**

The method for collecting information will be a telephone survey administered to a non-random sample of orphan share compensation offerees. Approximately 10 days before interviews are scheduled to begin, potential respondents will receive a letter from the Director, Office of Site Remediation Enforcement that explains the purpose of the survey and provides them with a copy of the survey questions for their reference. While the Agency intends to use a computer-assisted telephone interviewing technology to administer the survey (see below), it recognizes that some respondents may prefer to fill-out the enclosed paper survey and return it to the Agency rather than participate in a telephone interview. The Agency will accept written surveys, which will be entered directly into the project database and then QA/QCed for accuracy.

Computer-assisted telephone interviewing technology will be used to conduct the Orphan Share Compensation Reform Survey. This software technology will allow the Agency to develop an electronic version of the survey on a computer and link it to a project database. The software can be programmed so that survey administration, QA/QC, and data entry are combined into a single operation. Consequently, upon completion of the survey, accurate data will be immediately available for analysis.

### **c. Small Entity Flexibility**

Not applicable.

d. Collection Schedule

The Agency intends to begin distributing survey notification letters to potential survey respondents within 15 business days of ICR approval, and survey administration will begin approximately 25 days after ICR approval. Letters will be sent in groups of 100 every two weeks and interviews will be conducted until both survey categories (settlor and non-settlor) have been filled. We anticipate that it will take up to eight weeks to complete the surveys.

**Section 6: Estimating the Burden and Cost of the Collection**

a. Estimating Respondent Burden

Burden hour estimates are based on experience with similar surveys administered to a comparable group of survey respondents. The Agency has made an upper-bound assumption in developing the respondent burden estimate. After receiving the survey notification letter from the Agency, the manager for the organization would review the letter and survey questions with counsel to determine whether or not to participate in the survey. A technical professional and clerical staff person would review files to collect information about the orphan share compensation offer and records such as invoices about the cost of negotiations. This information would be reviewed and analyzed by the technical professional and the results would be provided to the manager. The manager would either fill-out written the survey and send it back to the Agency or participate in the telephone survey. Both are assumed to require the same amount of time. Exhibit 6-1 provides information on respondent burden by information collection activity and labor category.

**Exhibit 6-1**  
**Hours Per Respondent by Collection Activity and Labor Category**  
**Superfund Orphan Share Compensation Reform Survey**

Information Collection Activity	Hours per Labor Category				Labor Hours
	Legal	Manager	Technical	Clerical	
Review Instructions	0.50	0.50			1.00
Research Information Sources			0.50	0.50	1.00
Complete Review/Research			0.50		0.50
Transmit/Disclose Information		0.25			0.25
<b>TOTAL</b>					<b>2.75</b>

b. Estimating Respondent Costs

i. Labor Costs

This is a non-rule-related ICR. Accordingly, hourly labor rate estimates are based on the Bureau of Labor Statistics's "Employer Costs for Employee Compensation" website. The March 2000 version of the report was used, and labor rates were increased by a factor derived from the Bureau of Labor Statistic's "Employment Cost Index" to reflect labor costs during the first quarter of 2001. The following labor rates were used for this ICR: Legal and Manager labor at \$38.71 per hour; Technical labor at \$27.30 per hour; and, Clerical labor at \$17.99 per hour. These labor rates were multiplied by the burden hours that appear in Exhibit 6-1 to determine labor costs per respondent. Exhibit 6-2 provides labor costs per respondent by information collection activity and labor category.

**Exhibit 6-2**  
**Labor Costs Per Respondent by Collection Activity and Labor Category**  
**Superfund Orphan Share Compensation Reform Survey**

Information Collection Activity	Dollars Per Labor Category				Labor Costs
	Legal	Manager	Technical	Clerical	
Review Instructions	\$19.36	\$19.36	\$0.00	\$0.00	\$38.71
Research Information Sources	\$0.00	\$0.00	\$13.65	\$9.00	\$22.65
Complete Review/Research	\$0.00	\$0.00	\$13.65	\$0.00	\$13.65
Transmit/Disclose Information	\$0.00	\$9.68	\$0.00	\$0.00	\$9.68
<b>TOTAL</b>					<b>\$84.68</b>

ii. Capital and Operation and Maintenance Costs

Activities supported by this ICR do not involve the purchase of monitoring or reporting equipment.

iii. Capital/Start-up vs. Operating and Maintenance (O&M) Costs

Activities supported by this ICR do not involve the purchase of monitoring or reporting equipment.

iv. Annualizing Capital Costs

Not applicable.

c. Estimating Agency Burden and Cost

The Agency developed separate burden and cost estimates for Agency personnel and government contractors to reflect the fact that the government information collection and analysis activities described by this ICR will be implemented by a government contractor under the Agency's supervision. Accordingly, both labor hours and labor costs are broken-out into an Agency category and a Contractor category.

Hourly labor rate estimates for government employees were developed from the Office of Personnel Management's 2001 General Schedule for the Locality Area of Washington-Baltimore. Hourly wage rates were taken from this schedule and multiplied by a factor of 1.6 to reflect non-wage benefits provided to government employees and the true cost of government labor. The following labor rates were used for this ICR: GS-15/01 Attorney/Advisor at \$67.36 per hour; GS-14/01 Manager at \$57.26 per hour; GS-13/01 Technical Staff at \$48.46 per hour; and, GS-05/01 Clerical Staff at \$18.54 per hour.

Hourly labor rate estimates for contractor employees are based on the Bureau of Labor Statistics's "Employer Costs for Employee Compensation" website. The March 2000 version of the report was used, and labor rates were increased by a factor derived from the Bureau of Labor Statistics's "Employment Cost Index" to reflect labor costs during the first quarter of 2001. The following labor rates were used for this ICR: Manager labor at \$38.71 per hour; Analyst at \$27.30 per hour; and, Research Assistant at \$17.99 per hour.

Exhibit 6-3 provides information on government burden by information collection activity and labor category. This information is divided into separate Agency and Contractor sections. It should be noted that the estimate is for the entire Orphan Share Compensation Reform Evaluation, not just the survey. Exhibit 6-4 provides labor costs by information collection activity and labor category. This information is also divided into separate Agency and Contractor sections. The labor cost estimates were developed by multiplying the hourly labor rates described above by the government burden information in Exhibit 6-3. The labor cost estimate is for the entire evaluation, not just the survey.

**Exhibit 6-3**  
**Government Burden by Collection Activity and Labor Category**  
**Superfund Orphan Share Compensation Reform Evaluation**

Information Collection Activity	Agency				Total Agency Hours	Contractor			Total Contractor Hours
	Hours Per Activity					Hours Per Activity			
	Legal	Manager	Technical	Clerical		Manager	Analyst	RA	
Develop Methodology/Survey		30	30		60	105	110		215
Compile Data and Draw Sample		5	25		30	20	60	60	140
Develop Script and Project Database		5	20		25	30	75	75	180
Distribute Survey Notification		5	5		10	5	10	40	55
Enter Written Submissions					0	1	2	10	13
QA/QC Written Submission Data					0	1		5	6
Administer Telephone Surveys		5	20		25	40	40	400	480
Analyze Evaluation Data		5	10		15	35	80	80	195
Prepare Evaluation Report		20	20		40	100	100	40	240
Store Evaluation Data					0		5	5	10
TOTAL					205				1534

**Exhibit 6-4**  
**Government Labor Costs by Collection Activity and Labor Category**  
**Superfund Orphan Share Compensation Reform Survey**

Information Collection Activity	Agency				Total Agency Costs	Contractor			Total Contractor Costs
	Costs Per Activity					Costs Per Activity			
	Legal	Manager	Technical	Clerical		Manager	Analyst	RA	
Develop Methodology/Survey	\$0	\$1,718	\$1,454	\$0	\$3,172	\$4,065	\$3,003	\$0	\$7,068
Compile Data and Draw Sample	\$0	\$286	\$1,212	\$0	\$1,498	\$774	\$1,638	\$1,080	\$3,492
Develop Script and Project Database	\$0	\$286	\$969	\$0	\$1,256	\$1,161	\$2,048	\$1,350	\$4,559
Distribute Survey Notification	\$0	\$286	\$242	\$0	\$529	\$194	\$273	\$720	\$1,186
Enter Written Submissions	\$0	\$0	\$0	\$0	\$0	\$39	\$55	\$180	\$273
QA/QC Written Submission Data	\$0	\$0	\$0	\$0	\$0	\$39	\$0	\$90	\$129
Administer Telephone Surveys	\$0	\$286	\$969	\$0	\$1,256	\$1,549	\$1,092	\$7,198	\$9,839
Analyze Evaluation Data	\$0	\$286	\$485	\$0	\$771	\$1,355	\$2,184	\$1,440	\$4,979
Prepare Evaluation Report	\$0	\$1,145	\$969	\$0	\$2,114	\$3,871	\$2,730	\$720	\$7,321
Store Evaluation Data	\$0	\$0	\$0	\$0	\$0	\$0	\$137	\$90	\$226
TOTAL					\$10,594				\$39,072

d. Estimating the Respondent Universe and Total Burden and Cost

The estimated size of the respondent universe is 900 parties. The goal is to survey one-third (33 percent) of the settlers and one-third (33 percent) of the non-settlers at each site. We anticipate administering 300 surveys.

Based on information provided in Exhibit 6-1, total respondent burden for the survey is estimated as follows:

$$2.75 \text{ hours/survey} \times 300 \text{ surveys} = \underline{825 \text{ hours}}$$

Based on information provided in Exhibit 6-2, total respondent costs for the survey are estimated as follows:

$$\$84.68 \text{ /survey} \times 300 \text{ surveys} = \underline{\$25,405}$$

e. Bottom Line Burden Hours and Cost Tables

i. Respondent Tally

Exhibit 6-5 provides bottom-line burden hours and costs for the respondents.

**Exhibit 6-5**  
**Bottom-Line Estimate: Respondents**

Category	Respondents	Per Respondent	Unit	Total
Hours	300	2.75	Hours	825
Costs	300	\$84.68	Dollars	\$25,405

ii. Agency Tally

Exhibit 6-6 provides bottom-line burden hours and costs for the Agency. Note that Agency burden and hours and Contractor burden and hours from Exhibits 6-3 and 6-4 have been summed together to arrive at combined estimates for Agency burden and costs.



**Exhibit 6-6**  
**Bottom-Line Estimate: Agency**

Category	Hours	Costs
Agency	205	\$10,594
Contractor	1534	\$39,072
TOTAL	1739	\$49,666

f. Burden Statement

The public reporting burden for this collection of information is estimated to be 2 hours and 45 minutes per response, including the time to review instructions, research information sources, review and analyze records, and transmit or disclose information to the Agency.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the Director, Collection Strategies Division, US Environmental Protection Agency (2822), 1200 Pennsylvania Ave., NW, Washington, DC 20450; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17<sup>th</sup> Street, NW, Washington, DC 20503, Attention: Desk Office for EPA. Include the EPA ICR number and OMB control number in any correspondence.